

***SECTION 408.500, SMALL, SMALL LOAN COMPANY  
LICENSING APPLICATION PACKET***

***(Licensing Year January 1 through December 31)***

***--LENDERS OF UNSECURED LOANS OF FIVE HUNDRED DOLLARS OR LESS--***

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Enclosures:           Section 408.500 License Application  
                              Applicable Statutes and Regulations  
                              Legislative Information and Guidelines

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Instructions:

1. The enclosed application must be completed in its entirety. Please note you must include both the business and residence address of the officers and directors of the company. Be sure to sign the application where indicated.
  2. Section 408.500 registration fees are pro-rated. You will find a pro-rated fee schedule on page 2 of your application. Please allow for mail time when calculating your pro-rated fee. Your fee must be submitted with your completed application.
  3. If you would like your license sent to an address other than the company address, please note this on your application.
  4. Should your company move to a new location, you must notify our office immediately and surrender your original license for amendment.
  5. A licensee who ceases business pursuant to this section must notify the director to request an examination of all records within ten (10) business days prior to cessation. All records must be retained at least two years. You will need to surrender your original license with a written explanation for cessation, including location of receivables, if any.
  6. If you have any further questions regarding the filing of this application, please call our office at 573-751-3463.
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**Instructions:** Please complete this form and submit, including licensing fee (see reverse side for pro-rated amount), to the Division of Finance, 301 West High Street, Harry S. Truman State Office Bldg., Room 630, P.O. Box 716, Jefferson City, MO 65102. **PLEASE NOTE: THE LICENSING FEE APPLIES TO EACH LOCATION TRANSACTING BUSINESS.** Should you have any questions, please contact the Consumer Credit Licensing Section at 573-751-3463.

<b>MISSOURI DIVISION OF FINANCE</b>  <b>Application for Small, Small Loans</b> <b>Certificate of Registration</b>  <b>Section 408.500 License - For Year of 200__</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="padding: 2px;"><b>OFFICE USE ONLY --</b></td> </tr> <tr> <td style="padding: 2px;"><b>500 -</b> _____</td> <td style="padding: 2px;"><b>Rec#</b> _____</td> </tr> <tr> <td style="padding: 2px;">Check No. _____</td> <td style="padding: 2px;">Amount: \$ _____</td> </tr> <tr> <td style="padding: 2px;">Date: _____</td> <td style="padding: 2px;">Initials: _____</td> </tr> </table>	<b>OFFICE USE ONLY --</b>		<b>500 -</b> _____	<b>Rec#</b> _____	Check No. _____	Amount: \$ _____	Date: _____	Initials: _____
<b>OFFICE USE ONLY --</b>									
<b>500 -</b> _____	<b>Rec#</b> _____								
Check No. _____	Amount: \$ _____								
Date: _____	Initials: _____								
<u>Information for Licensed Location:</u>  <b>Company Name:</b> _____  <b>Address:</b> _____  <b>City:</b> _____ <b>State:</b> _____ <b>Zip:</b> _____  <b>Telephone:</b> _____ <b>Fax:</b> _____ <b>County (MO only):</b> _____									

Hours of Operation:	
License <u>Certificate</u> Mailing Instructions (You <u>must</u> Check one):	<input type="checkbox"/> Mail Directly to Above Licensed Location <input type="checkbox"/> Mail to Home Office <input type="checkbox"/> Mail to Other Address: _____ _____ _____
Licensing Contact for <u>Renewal</u> Applications:	Name: _____ Street Address: _____ City/State/Zip: _____ Telephone: (    )                      Fax: (    )
Contact Person for Office and Consumer Inquiries/Complaints:	Name: _____ Street Address: _____ City/State/Zip: _____ Telephone: (    )                      Fax: (    )
Home Office Information (if applicable):	Name: _____ Street Address: _____ City/State/Zip: _____ Telephone: (    )                      Fax: (    )
Information Regarding Preparer of Application:	Name: _____ Telephone: (    )                      Fax: (    )

**If applicant is:** **Individual**, complete Section I. **Partnership**, complete Section II. **Corporation**, complete Sections II **and** III.

<b>I. INDIVIDUAL</b>	<b>Name:</b>	<b>Phone Number: (     )</b>
	<b>Residence Address:</b>	
	<b>Business Address:</b>	
<b>II. PARTNERSHIP, ASSOCIATION <i>OR</i> CORPORATION</b>	<b>Name:</b>	<b>Phone Number: (     )</b>
	<b>Principal Business Address:</b>	
<b>Names, Titles of Partners/Officers</b>	<b>Business Address</b>	<b>Residence Address</b>
<b>III. CORPORATION</b>	<b>Date of Incorporation:</b>	
	<b>Principal Office in Missouri (if applicable):</b>	

**PRO-RATED FEE SCHEDULE:** The annual registration fee for Section 408.500 registration is \$300.00. This fee shall be pro-rated per month from date business is to begin operations. The fee schedule is as follows:

January	--	\$300.00	April	--	\$225.00	July	--	\$150.00	October	--	\$75.00
February	--	\$275.00	May	--	\$200.00	August	--	\$125.00	November	--	\$50.00
March	--	\$250.00	June	--	\$175.00	September	--	\$100.00	December	--	\$25.00

**STATEMENT:** The undersigned, first being duly sworn, states that (s)he is a(n) (officer) (principal) (partner) (authorized representative) in the company above named and that facts contained in the foregoing application are true.

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(Signature)(Officer/Title, Partner)

## CHAPTER 408

### LEGAL TENDER AND INTEREST

#### LENDERS OF UNSECURED LOANS UNDER FIVE HUNDRED DOLLARS

**408.500. Unsecured loans under five hundred dollars, licensure of lenders, interest rates and fees allowed - penalties for violations - cost of collection expenses - notice required, form.**

1. Lenders, other than banks, trust companies, credit unions, savings banks and savings and loan companies, in the business of making unsecured loans of five hundred dollars or less shall obtain a license from the director of the division of finance. An annual license fee of three hundred dollars per location shall be required. The license year shall commence on January first each year and the license fee may be prorated for expired months. The provisions of this section shall not apply to pawnbroker loans, consumer credit loans as authorized under chapter 367, RSMo, nor to a check accepted and deposited or cashed by the payee business on the same or the following business day. The disclosures required by the federal Truth in Lending Act and regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and the loan, renewal or extension documents shall be signed by the borrower.

2. Entities making loans pursuant to this section shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140. Any contract evidencing any fee or charge of any kind whatsoever, except for bona fide clerical errors, in violation of this section shall be void. Any person, firm or corporation who receives or imposes a fee or charge in violation of this section shall be guilty of a class A misdemeanor.

3. Notwithstanding any other law to the contrary, cost of collection expenses, which include court costs and reasonable attorneys fees, awarded by the court in suit to recover on a bad check or breach of contract shall not be considered as a fee or charge for purposes of this section.

4. Lenders licensed pursuant to this section shall conspicuously post in the lobby of the office, in at least fourteen-point bold type, the maximum annual percentage rates such licensee is currently charging and the statement:

**NOTICE:**

This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

5. The lender shall provide the borrower with a notice in substantially the following form set forth in at least ten-point bold type, and receipt thereof shall be acknowledged by signature of the borrower:

(1) This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

(2) You may cancel this loan without costs by returning the full principal balance to the lender by the close of the lender's next full business day.

6. The lender shall renew the loan upon the borrower's written request and the payment of any interest and fees due at the time of such renewal; however, upon the fifth renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the principal amount of the loan by ten percent of the original amount of the loan until such loan is paid in full.

7. When making or negotiating loans, a licensee shall consider the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract. All records shall be retained at least two years.

8. A licensee who ceases business pursuant to this section must notify the director to request an examination of all records within ten business days prior to cessation. All records must be retained at least two years.

9. Any lender licensed pursuant to this section who fails, refuses or neglects to comply with the provisions of this section, or any laws relating to consumer loans or commits any

criminal act may have its license suspended or revoked by the director of finance after a hearing before the director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the licensee at least ten days prior to the hearing.

10. Whenever it shall appear to the director that any lender licensed pursuant to this section is failing, refusing or neglecting to make a good faith effort to comply with the provisions of this section, or any laws relating to consumer loans, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(L. 1990 H.B. 961, A.L. 1998 H.B. 1189, A.L. 2001 H.B. 738 merged with S.B. 186)

#### TIME LIMITATIONS ON CLEARING CHECKS AND FEE LIMITATIONS ON OVERDRAFTS

**408.653. Fee limitations, overdrafts.** - 1. A depository institution, including any state or federally chartered bank, credit union, savings and loan association or any similar institution may charge no more than fifteen dollars as an overdraft charge or as a charge for a check, draft or similar sight order returned for insufficient or uncollected funds.

2. Any person to whom a check, draft, order or like instrument is tendered may, if such instrument is dishonored or returned unpaid for any reason, charge and collect from the maker or drawer, or the person for whose benefit such instrument was given, the amount of twenty dollars plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument. No such charge will be considered interest, finance charge, time price differential or anything of a similar nature for purposes of any statute in this state.

(L. 1986 H.B. 1195 § 3, A.L. 1989 H.B. 346, A.L. 1994 S.B. 718, A.L. 1998 SB 852 & 913)

### TITLE 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT

#### Division 140 - Division of Finance Chapter 11 - Small, Small Loan Companies

##### **4 CSR 140-11.010 Small, Small Loan Companies - Licensing and General Provisions**

PURPOSE: Small, small loan companies (hereafter known as section 500 companies) are required by section 408.500, RSMo (Cum. Supp. 1990) to obtain a license from the commissioner of finance. This rule establishes guidelines concerning obtaining licenses, which locations will require a license and other general provisions.

(1) Licensing Fees. At the time of filing the application, each section 500 company applicant shall pay the sum of three hundred dollars (\$300) as an annual licensing fee for the period January 1 through December 31 next following. Renewal fees shall be paid on or before December 31 of each year. As there is no authorization for prorating the annual fee, the fee shall be the full three hundred dollars (\$300) for any fraction of the licensing year.

(2) Locations. Section 408.500, RSMo provides in part that the section 500 company license is available to "lenders exclusively in the business of making unsecured loans under \$500 . . . ." The conduct of other business, excluding other licensed consumer credit activity, on the premises will not bar the issuance of a section 500 company license but the records of the section 500 company must be kept strictly separate from those

of any other enterprise. Further, there should be enough of a distinction, through the use of signage or other means, that the customer can determine that s/he is dealing with a separate company. Under no circumstances will more than one (1) section 500 company license be issued to the same address.

(3) Additional Locations. Any location at which a section 500 company permits any person to accept or execute any forms or documents relating to section 500 company business shall be deemed to be a place of business of the section 500 company and shall require a separate license.

(4) Multiple Loans. It is recognized that a customer of a section 500 company might require a bona fide second (or subsequent) loan. However, no single loan may be split into two (2) or more loans under section 408.500, RSMo or the combination of section 408.500, RSMo loans and loans under any other law, with the purpose or result of garnering more interest than would have been available on one (1) loan; for purposes of this rule, affiliated section 500 companies shall be treated as one (1).

(5) Term. All loans made by section 500 companies shall have a minimum term of fourteen (14) days. All loans made by section 500 companies with terms exceeding one (1) month shall be payable at monthly intervals. A day in one month to the same day in the following month(s) shall be deemed a month unless that day does not appear in a subsequent month in which case the last day of the shorter month shall constitute a month. No section 500 company loan may have a term exceeding ten (10) months. Interest shall not be discounted nor deducted from the principal of the loan, nor paid nor received at the time the loan is made and shall not be compounded. Finance charges may be computed as add-ons at the inception of the loan and not necessarily as a percentage applied against the unpaid balances.

(6) Finance Charges-When Earned. The loan fee and the first month's finance charge shall be earned upon issuance of the loan. Subsequent months' finance charge, in the event of prepayment, shall be earned on a monthly pro rata basis with the month(s) being considered earned only after the expiration of sixteen (16) days of the payment month.

(7) Security Prohibited. No loan made by a section 500 company may be secured or collateralized. A post-dated check shall not be considered security or collateral; provided, however, that no post-dated check may bear any date earlier than the due date of the loan. Should a check for an earlier date be accepted or should any post-dated check be deposited prior to the date on it, the related note shall be void and both principal and interest refunded to the borrower. A check left with a section 500 company shall be returned to the maker immediately upon payment of the loan in cash. A receipt must be given for any payment made in cash.

(8) Additional Fees Prohibited and Acceleration. Section 408.500, RSMo prohibits any additional fees. Therefore, no attorney's fees, collection costs or other costs of any type or kind will be permitted. A contract in default or past maturity may bear interest at the contract rate and not the annual percentage rate (APR). Should a multi-month loan made by a section 500 company default in any but the last month, a minimum period of fifteen (15) days must elapse before acceleration; at that time the loan may be accelerated as though prepaid in full and the resulting balance may bear interest at the contract rate as described in this rule.

(9) Penalties. Violations of this rule shall be regarded as a violation of section 408.500, RSMo and subject to the same penalties as provided in that section.

Auth: section 408.500, RSMo (Cum. Supp. 1990). Emergency rule filed Dec. 11, 1990, effective Jan. 1, 1991, expired April 30, 1991. Emergency rule filed April 8, 1991, effective April 30, 1991, expired Aug. 27, 1991. Original rule filed Dec. 11, 1990, effective July 8, 1991.

#### **4 CSR 140-11.020 Small, Small Loan Companies-Recordkeeping**

PURPOSE: Small, small loan companies (hereafter known as section 500 companies) are subject to regulation and examination by the Division of Finance, pursuant to section 408.500, RSMo (Cum. Supp. 1990), for the purpose of assuring compliance with all applicable laws. This rule establishes minimum recordkeeping requirements to facilitate examination and regulation.

(1) Books and Records. No special system of records is required by the commissioner of finance. The records of a section 500 company will be considered sufficient if they include a cash journal, double entry general ledger or a comparable record and an individual account ledger. The records of the business of each registered office shall be maintained so that the assets, liabilities, income and expense may be readily ascertained.

(2) Cash Journal. A cash book or cash journal shall contain a chronological record of the receipt and disbursement of all funds, all items of receipt or expenditures incidental to the granting or collection of a section 500 company loan.

(3) General Ledger. The general ledger shall be posted at least monthly. A trial balance sheet and profit and loss statement shall be available to the examiner. When the general ledger is kept at a central office other than the location of the registered office, the central office shall provide information required by this section.

(4) Account Ledger. An individual record shall be kept for each individual contract. That ledger card or sheet shall include at least the following items:

(A) Account number which shall correspond to the loan number and which account numbers shall be sequential;

(B) Name and address of the borrower and of the section 500 company;

(C) Date of contract;

(D) Date when first and subsequent payments are due;

(E) Number of installments;

(F) Amount of installments;

(G) Date payments received;

(H) The amount financed;

(I) The finance charge;

(J) The total of the amount financed and finance charge;

(K) The total of payments; and

(L) The annual percentage rate.

(5) Index. The section 500 company shall maintain a file which shall index each borrower alphabetically and contain at least the following information: name of borrower, address of borrower, date of contract, account number and date paid in full. A separate index shall be kept on open contracts or agreements and those paid in full.

(6) Records Available. All books, records and papers, including the contracts and applications, shall be kept in the office of the section 500 company and made available to the examiner of the Division of Finance for examination at any time without previous notice. When contracts are hypothecated or deposited with a financial institution or other party in connection with credit, access to it must be provided for the examiner pursuant to agreement between the section 500 company and the other financial institution(s).

(7) Handling of Errors. When an error is made on the individual ledger or general ledger of a manual operation, a single thin line, preferably in red, shall be drawn through the improper entry and the correct entry made on the following line. No erasures whatsoever shall be made in any record.

(8) Records to be Maintained by Company. A section 500 company shall preserve its records of section 500 company transactions, including cards used in a card system, if any, for at least two (2) years after making the final entry with respect to any section 500 company agreement. The preservation of records in photographic, microfilm or microfiche form constitutes compliance with this section.

(9) Contracts Paid in Full. When a section 500 company loan is paid in full, it shall be the responsibility of the section 500 company to mark the original contract paid in full and return it to the borrower. If paid by renewal, the note should be so marked.

(10) Contracts Paid in Full Before Maturity. When a section 500 loan is paid in full before maturity, the individual ledger shall show at least the following information:

- (A) The date paid in full; and
- (B) The amount of interest refunded (if any).

(11) Penalties. Violations of this rule shall be regarded as a violation of section 408.500, RSMo and subject to the same penalties as provided in that section.

Auth: section 408.500, RSMo (Cum. Supp. 1990). Emergency rule filed Dec. 11, 1990, effective Jan. 1, 1991, expired April 30, 1991. Emergency rule filed April 8, 1991, effective April 30, 1991, expired Aug. 27, 1991. Original rule filed Dec. 11, 1990, effective July 8, 1991.

## NEW PAYDAY LOAN LEGISLATION

The laws governing payday loans are changing again this year, effective **August 28, 2002**. Enclosed is a copy of the changed law, SB884, which will require the use of revised contracts. We have attached a copy of a note and disclosure statement which, if properly completed, will comply with the new law.

**SPECIAL NOTE:** All loans and renewals made on or after 8/28/02 will be subject to the new law. This means that a loan currently on the books that is renewed on or after 8/28/02 will be considered a new loan.

The following are the high points of the changes.

- A) There have been significant changes concerning renewals: 1) there must be a paydown of at least 5% of the original balance on each and every renewal beginning with the first renewal and 2) a loan may not be renewed more than 6 times (408.500.6);
  - **Example:** The borrower must reduce the principal of a \$300 loan a minimum of \$15 **each time** the loan is renewed.
- B) The minimum loan term is 14 days and the maximum term is 31 days (408.505.2);
- C) Loans must still be simple interest and may be at any interest rate, but the **maximum** amount the borrower may pay in **interest and fees** for the life of a loan, including all its renewals, is **75%** of the original loan amount (408.505.3);
  - **Example:** A lender could not collect more than \$75, **in total**, on a \$100 loan regardless of the number of times it has been renewed.
    - ◆ **Please Note.** The law says **interest and fees**. NSF check fees, late charges, and loan origination fees (if any) would be included in the 75% ceiling.
- D) The lender **may not** charge the borrower a fee for cashing the lender's loan proceeds check. (408.505.3);
- E) Once the loan is "completed" by a cash payoff, or by the lender depositing the check into a depository financial institution, a subsequent loan does not constitute a renewal (408.505.4);
- F) Except for a renewal, a loan cannot be repaid with the proceeds of a loan by the same lender (408.505.5);
- G) A borrower may not have loans totaling more than \$500 with a lender or any affiliated entity. (408.505.5);
- H) A lender may charge a returned check fee of **\$20**, plus the amount the bank charges the lender for handling the check (408.505.6) but giving an NSF check to a payday lender is not a crime unless the maker stopped payment or closed the account (408.505.8).

**PLEASE DISCUSS THESE CHANGES WITH YOUR HOME OFFICE, IF APPLICABLE.**

### QUICK REFERENCE TABLE

Topic	Statute	Remarks
Maximum Interest Rate	408.505.3	Unregulated, but subject to a cap of <b>75%</b> of the original loan amount for interest and fees.  <b>Example:</b> \$100 loan may earn <b>no more</b> than \$75 in interest and fees for the life of the loan, including all its renewals.
Term	408.505.2	Minimum of 14 days. Maximum of 31 days.
Renewals	408.500.6	<b>Maximum</b> of 6 renewals.
Principal Reduction	408.500.6	Borrower <b>must</b> reduce the principal by not less than <b>5%</b> of the original loan, beginning with the <b>first</b> renewal and each renewal thereafter.
Completed Loan	408.505.4	A loan is considered completed, or paid, if: 1. The check is deposited for payment, <b>or</b> 2. The borrower redeems the check by paying the full amount of the check. Once a loan is completed, the borrower may get another loan from the same lender.
Returned Check Charges	408.505.6	<b>\$20</b> , plus the amount the bank charges the lender for handling the check.



<b>Name of Lender</b> <b>Street Address</b> <b>City, State</b> <b>Telephone Number</b>	<b>Name of Borrower</b> <b>Street Address</b> <b>City, State</b>
<b>Loan Number:</b>	<b>Date of Loan:</b>

  

<b>ANNUAL PERCENTAGE RATE</b> <small>The cost of your credit as a yearly rate.</small> <div style="text-align: right;">%</div>	<b>FINANCE CHARGE</b> <small>The dollar amount the credit will cost you.</small> <div style="text-align: right;">\$</div>	<b>Amount Financed</b> <small>The amount of credit provided to you or on your behalf.</small> <div style="text-align: right;">\$</div>	<b>Total of Payments</b> <small>The amount you will have paid after you have made all payments as scheduled.</small> <div style="text-align: right;">\$</div>						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; text-align: center;"><b>Number of Payments</b></td> <td style="width: 33%; text-align: center;"><b>Amount of Payment</b></td> <td style="width: 33%; text-align: center;"><b>When Payments Are Due</b></td> </tr> <tr> <td style="height: 30px;"></td> <td></td> <td></td> </tr> </table>		<b>Number of Payments</b>	<b>Amount of Payment</b>	<b>When Payments Are Due</b>				<p><b>Your payment schedule will be:</b></p> <p><b>Security:</b> This loan is unsecured.</p> <p><b>Late Charge:</b> If a payment is 15 days late you will be charged 5% of the payment.</p> <p><b>Prepayment:</b> If you pay off early you will not have to pay a penalty.</p> <p><small>See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.</small></p> <p><small>e means an estimate.</small></p>	
<b>Number of Payments</b>	<b>Amount of Payment</b>	<b>When Payments Are Due</b>							

  

Itemization of Amount Financed of \$ _____ \$ _____ Amount given to you directly \$ _____ Loan Proceeds paid on your account \$ _____ Loan Origination Fee \$ (_____) _ Prepaid Finance Charge \$ _____ Amount Financed	<p style="text-align: center;"><b>NOTICE OF YOUR FINANCIAL PRIVACY RIGHTS</b></p> <p style="text-align: center;"><b>RESTRICTION OF NON-PUBLIC INFORMATION ACCESS</b></p> <p><small>We restrict access to your non-public personal information to employees needing to know that information to assist you with products or services. We keep the physical, electronic, and procedural safeguards required by our regulators to insure the safety of your personal information.</small></p> <p style="text-align: center;"><b>INFORMATION TO NON-AFFILIATED THIRD PARTIES</b></p> <p><small>Since we value our relationship, we will not disclose your non-public personal information to non-affiliated third parties unless required by law. We also do not disclose non-public personal information about former customers unless required by law.</small></p>
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### Promissory Note

**Promise To Pay:** The lender agrees to loan you the principal sum of \$ \_\_\_\_\_, to bear interest at the rate of \_\_\_\_\_ % per annum until paid in full. The total amount of interest and fees collected on this loan, and all renewals thereof, shall not exceed 75% of the original amount of this loan. The loan is due and payable on \_\_\_\_\_. You may prepay this loan, in full or in part, at any time without penalty. The loan origination fee, if any, is fully earned at the time the loan is made unless the full principal loan amount is returned to the lender by the close of the next full business day.

**Loan Origination Fee:** If this loan has a term of 30 days or longer, you agree to pay a loan origination fee of \$ \_\_\_\_\_.

**Renewals:** Beginning with the 1<sup>st</sup> renewal and with each renewal thereafter, you must reduce the original principal amount of the loan by not less than 5% until the loan is paid in full. There will be no more than 6 renewals of this loan.

**Returned Check Fee:** If any instrument is returned for any reason by any financial institution, you agree to pay a fee of \$20, plus the amount charged the lender by the financial institution for processing the refused instrument.

**Late Charge:** You also agree to pay a late fee of 5% of the payment if a payment is 15 days or more late.

**Attorney Fees & Court Costs:** If it becomes necessary to file suit to collect this loan, you agree to pay attorney fees and court costs pursuant to section 408.140 RSMO.

### NOTICE TO BORROWER

- (1) This lender offers short term loans. Please read and understand the terms of the loan agreement before signing.
- (2) You may cancel this loan without costs by returning the full principal balance to the lender by the close of the lender's next full business day.

I hereby acknowledge receipt of a copy of this notice.

_____ Borrower	_____ Borrower
_____ Date	_____ Date

**By signing below I hereby agree to the terms and conditions of the loan agreement above.**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Borrower

\_\_\_\_\_  
Date

\_\_\_\_\_  
Borrower

\_\_\_\_\_  
Date

**This lender is regulated by:**  
**Missouri Division of Finance**  
**P O Box 716**  
**Jefferson City, MO 65102-0716**  
**(573) 751-3463**

**DO NOT SEND PAYMENTS TO THIS ADDRESS!**

**Renewal Number**

**New 1 2 3 4 5 6**

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 884

91ST GENERAL ASSEMBLY

2002

3555S.05T

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## AN ACT

To repeal section 408.500, RSMo, and to enact in lieu thereof three new sections relating to restrictions on payday loans, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 408.500, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 408.500, 408.505 and 408.506, to read as follows:

408.500. 1. Lenders, other than banks, trust companies, credit unions, savings banks and savings and loan companies, in the business of making unsecured loans of five hundred dollars or less shall obtain a license from the director of the division of finance. An annual license fee of three hundred dollars per location shall be required. The license year shall commence on January first each year and the license fee may be prorated for expired months. The provisions of this section shall not apply to pawnbroker loans, consumer credit loans as authorized under chapter 367, RSMo, nor to a check accepted and deposited or cashed by the payee business on the same or the following business day. The disclosures required by the federal Truth in Lending Act and regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and the loan, renewal or extension documents shall be signed by the borrower.

2. Entities making loans pursuant to this section shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140. Any contract evidencing any fee or charge of any kind whatsoever, except for bona fide

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

clerical errors, in violation of this section shall be void. Any person, firm or corporation who receives or imposes a fee or charge in violation of this section shall be guilty of a class A misdemeanor.

3. Notwithstanding any other law to the contrary, cost of collection expenses, which include court costs and reasonable attorneys fees, awarded by the court in suit to recover on a bad check or breach of contract shall not be considered as a fee or charge for purposes of this section.

4. Lenders licensed pursuant to this section shall conspicuously post in the lobby of the office, in at least fourteen-point bold type, the maximum annual percentage rates such licensee is currently charging and the statement:

NOTICE:

This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

5. The lender shall provide the borrower with a notice in substantially the following form set forth in at least ten-point bold type, and receipt thereof shall be acknowledged by signature of the borrower:

(1) This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

(2) You may cancel this loan without costs by returning the full principal balance to the lender by the close of the lender's next full business day.

6. The lender shall renew the loan upon the borrower's written request and the payment of any interest and fees due at the time of such renewal; however, upon the [fifth] **first** renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the principal amount of the loan by [ten] **not less than five** percent of the original amount of the loan until such loan is paid in full. **However, no loan may be renewed more than six times.**

7. When making or negotiating loans, a licensee shall consider the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract. All records shall be retained at least two years.

8. A licensee who ceases business pursuant to this section must notify the director to request an examination of all records within ten business days prior to cessation. All records must be retained at least two years.

9. Any lender licensed pursuant to this section who fails, refuses or neglects to comply with the provisions of this section, or any laws relating to consumer loans or commits any criminal act may have its license suspended or revoked by the director of finance after a hearing before the director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the licensee at least ten days prior to the hearing.

10. Whenever it shall appear to the director that any lender licensed pursuant to this section is failing, refusing or neglecting to make a good faith effort to comply with the provisions of this section, or any laws relating to consumer loans, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

**408.505. 1. This section shall apply to:**

**(1) Unsecured loans made by lenders licensed or who should have been licensed pursuant to section 408.500;**

**(2) Any person that the Missouri division of finance determines that has entered into a transaction that, in substance, is a disguised loan; and**

**(3) Any person that the Missouri division of finance determines has engaged in subterfuge for the purpose of avoiding the provisions of this section.**

**2. All loans made pursuant to this section and section 408.500, shall have a minimum term of fourteen days and a maximum term of thirty-one days, regardless of whether the loan is an original loan or renewed loan.**

**3. A lender may only charge simple interest and fees in accordance with sections 408.100 and 408.140. No other charges of any nature shall be permitted**

except as provided by this section, including any charges for cashing the loan proceeds if they are given in check form. However, no borrower shall be required to pay a total amount of accumulated interest and fees in excess of seventy-five percent of the initial loan amount on any single loan authorized pursuant to this section for the entire term of that loan and all renewals authorized by section 408.500 and this section.

4. A loan made pursuant to the provisions of section 408.500 and this section shall be deemed completed and shall not be considered a renewed loan when the lender presents the instrument for payment or the payee redeems the instrument by paying the full amount of the instrument to the lender. Once the payee has completed the loan, the payee may enter into a new loan with a lender.

5. Except as provided in subsection 3 of this section, no loan made pursuant to this section shall be repaid by the proceeds of another loan made by the same lender or any person or entity affiliated with the lender. A lender, person or entity affiliated with the lender, shall not have more than five hundred dollars in loans made pursuant to section 408.500 and this section outstanding to the same borrower at any one time. A lender complies with this subsection if:

(1) The consumer certifies in writing that the consumer does not have any outstanding small loans with the lender which in the aggregate exceeds five hundred dollars, and is not repaying the loan with the proceeds of another loan made by the same lender; and

(2) The lender does not know, or have reason to believe, that the consumer's written certification is false.

6. On a consumer loan transaction where cash is advanced in exchange for a personal check, a return check charge may be charged in the amounts provided by sections 408.653 and 408.654, as applicable.

7. No state or public employee or official, including a judge of any court of this state, shall enforce the provisions of any contract for payment of money subject to this section which violates the provisions of section 408.500 and this section.

**8. A person does not commit the crime of passing a bad check pursuant to section 570.120, RSMo, if at the time the payee accepts a check or similar sight order for the payment of money, he or she does so with the understanding that the payee will not present it for payment until later and the payee knows or has reason to believe that there are insufficient funds on deposit with the drawee at the time of acceptance. However, this section shall not apply if the person's account on which the instrument was written was closed by the consumer before the agreed upon date of negotiation or the consumer has stopped payment on the check.**

**9. A lender shall not use a device or agreement that would have the effect of charging or collecting more fees, charges, or interest than allowed by this section, including, but not limited to:**

- (1) Entering into a different type of transaction;**
- (2) Entering into a sales lease back arrangement;**
- (3) Catalog sales;**

**(4) Entering into any other transaction with the consumer that is designed to evade the applicability of this section.**

**10. The provisions of this section shall only apply to entities subject to the provisions of section 408.500 and this section.**

**408.506. The division of finance shall report to the general assembly beginning on January 1, 2003, and on the first day of January every other year thereafter, the number of licenses issued by the director pursuant to section 408.500, the number of loans issued by said lenders, the average face value of such loans, the average number of times said loans are renewed, the number of said loans that are defaulted on an annual basis, and the number and nature of complaints made to the director by customers on such licensees and the disposition of such complaints. Such report shall also include the average interest and fees charged and collected by lenders on such loans, and a comparison of such with similar small loan lenders from adjoining states.**